



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,678	01/16/2004	B. Raghav Reddy	HES 2003-IP-011937U1	8611
28857	7590	07/10/2008		
CRAIG W. RODDY HALLIBURTON ENERGY SERVICES P.O. BOX 1431 DUNCAN, OK 73536-0440			EXAMINER MARCANTONI, PAUL D	
			ART UNIT	PAPER NUMBER
			1793	
			MAIL DATE	DELIVERY MODE
			07/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/759,678	Applicant(s) REDDY ET AL.	
	Examiner Paul Marcantoni	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/9/08 RCE.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-28, 30-39, 123-134, 136-170 and 172-191 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-28, 30-39, 123-134, 136-170 and 172-191 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/7/07</u> . | 6) <input type="checkbox"/> Other: _____ |

Applicant's RCE and response filed 5/9/08 have been fully considered but they are not persuasive.

Obviousness-Type Double Patenting (withdrawn):

The applicants petition to withdraw the terminal disclaimer was dismissed. Therefore, the terminal disclaimer is still active and the ODP rejection has been again withdrawn because of this dismissal.

Objection to the Specification (withdrawn):

The objection to the specification has been withdrawn. The applicants state that an activator is *substantially similar* to what are referred to as accelerators (p.14 of 20 of 5/7/07 response). The definition provided by applicants is vague. The examiner does not understand exactly what is meant by these terms. Nevertheless, he has interpreted “activator” and “accelerator” to be *synonymous terms* for the purpose of the examination of this instant application. The applicants have also stated that accelerator is generally used to refer to a particular cement composition not comprising a retarder. However, there are many patents that do use accelerator and retarder in the same composition and do not use the term “activator”. Nevertheless, applicants are permitted to an extent to be their own lexicographer and the examiner thus has interpreted activator and accelerator to have the same meaning.

35 USC 102/103:

Claims 1-12, 14-28, 30-39, 123-134, 136-170, and 172-191 are rejected under 35 USC 102(a) and (b) as anticipated, or in the alternative, under 35 USC 103(a) as obvious over Smith et al. '939 or Booth '407 alone or in view of Vijn et al. '488 or Yamashita et al. '418, Laramay et al. '318, Scheetz et al. (abstract), or McCurich (US Patent No. 4,131,480).

The primary references above teach adding a cationic polymer to cement. The prior art cationic polymer is the same as applicants' cationic polymer and thus would also function as their particle size distribution adjusting agent. The applicants particle size distribution adjusting agent is essentially new words for defining what is already old in the art. Namely, this PSDA agent is actually a flocculent or flocculating agent which causes particles in suspension to floc together or agglomerate (see page 7, line 8 of applicants' specification). The activator or activating agent reads upon either water (which activates the hydraulic activity of cement) or an accelerator which accelerates and activates the rapid setting of cement. Note that in claim 1 applicants do not specify or define any specific activators and though they may mean accelerator by the use of the term activator, water is the only ingredient which imparts the hydraulic activity to cement and starts the hydraulic reaction for hardening and setting of the cement.

The use of a retarder is *conventional* and well known in cement compositions to retard or delay the setting of cement. Vijn et al. '488 teaches in column 4, lines 24-35 that the addition of a retarder to cements for applications such as well cements is known and conventional in the art. Vijn also teach adding dispersing agents, defoamers, silica

Art Unit: 1793

flour, formation conditioning additives, expansion aids, set accelerators (activators), weighting agents, lightening agents such as fly ash or fumed silica (see col.4 lines 10-16 and col.5, lines 1-20).

Yamashita et al. '418 teach *conventional* additives to cement compositions include retarders such as phosphonic acids and their derivatives (col.17, line 25), high early strength agents (ie accelerators or as applicants name them activators) such as KOH or NaOH (col.17, lines 35-40) as well as alkanolamines, surfactants (same as surface active agents-see col.18, line s 35-55), thickeners (same as viscosifiers-see col.19, line 3), silica fume, fly ash, etc. Yamashita et al. further teach these additives may be added in plural (col.19, line 9).

Laramay et al. '318 teach adding *conventional* additives to cement compositions such as fluid loss additives, viscosifiers, retarders, accelerators (ie activators), dispersants, weight adjusting agents, fillers, (see col.10, lines 25-30), surfactants (col.11, line 14), fly ash, silica flour etc. (col.11, lines 20-23). It would have been an obvious design choice for one of ordinary skill in the art to add conventional cement additives of Laramay et al. '318, Vijn et la. '488, and Yamashita et al. '418 to cement compositions such as those of the primary references because these are routinely used in the art.

Scheetz and McCurich '480 et al. teach the addition of sulfonated naphthalene condensate is old in the cement art as an additive because it is a conventionally used superplasticizer (dispersant) for improving the pumpability of the cement slurry (see abstract). The applicants call this component a "yield stress reducing agent" but it is

better known in the art as a superplasticizer (or dispersant) which are conventional additives to improve cement pumpability.

Response to 5/7/07 Arguments:

The examiner appreciates and acknowledges applicants' amendments especially their insertion of penetrated by a wellbore into all independent claims to simplify prosecution and reduce the number of references. All references no longer recited above in the 102/103 have been withdrawn. The 102 rejection over Yamashita has been withdrawn also because it does not teach well cementing or wellbore cementing. Smith et al. '939 and Booth '407 are the remaining primary references and still relate to well cementing processes. Smith et al. teach treating a subterranean formation for well cementing. Booth teach filling subterranean cavities and a wellbore still falls under this category of subterranean cavities.

The examiner notes that the secondary references were used in the 102/103 rejection to show that additives such as retarders and dispersants (yield stress reducing agent as labeled by applicants) are conventional additives to cement. The purpose for adding a retarder is to delay the setting of cement and thus by adding a retarder the cement would remain in a slurry state and this would have been understood by one of ordinary skill in the art. Adding an activator or accelerator would lead to the setting of the cement and the cement would no longer be in a slurry state but moving towards a hardened and setting material.

Response to 5/9/08 Arguments:

The applicants bring forth the issue of the petition to withdraw the terminal disclaimer. In response, the PTO Office of Petitions decided the matter on 11/13/06 and it was dismissed (It is listed as an entry date on public pair of 5/7/07. The PTO Office of Petitions also decided not to refund applicants petition fee (See for yourself). A copy of the decision can be found on Public Pair in the prosecution history. Any redress on applicants part should be directed to them; The examiner had no part in that decision nor can he undo it even if he had the power to do so. The decision stands.

The applicants also re-argue issues already addressed by the examiner and these responses can be found in previous office actions. Applicants are referred to those previous rebuttals, especially those in the most recent 7/13/07 final rejection. It is further noted that this application was authorized and approved to be sent to the Board of Appeals but applicants filed a subsequent RCE. The issues and claims are essentially the same. Applicants only add that the activator is added to the cement composition. This is understood as to the only means to which the cement can be activated (adding an activator) so this issue is nothing that was not already addressed previously by the examiner. It is the examiner's position that the finality of this office action is now proper.

This is an RCE of applicant's earlier Application No. 10/759,678. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is 571-272-1373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Paul Marcantoni/
Primary Examiner, Art Unit 1793

Application/Control Number: 10/759,678
Art Unit: 1793

Page 8